

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

HONORABLE GEORGE CARAM STEEH

v.

No. 15-20652

D-3 EUGENE FISHER,
D-4 COREY BAILEY,
D-6 ROBERT BROWN,
D-10 DEVON PATTERSON,
D-13 ARLANDIS SHY,
D-19 KEITHON PORTER,

Defendants.

JURY TRIAL

Tuesday, June 19, 2018

- - -

APPEARANCES:

For the Government:

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JUSTIN WECHSLER, ESQ.
TARE WIGOD, ESQ.
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On behalf of Corey Bailey

JAMES FEINBERG, ESQ.
On behalf of Robert Brown

BERTRAM JOHNSON, ESQ.
On behalf of Devon Patterson

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MARK MAGIDSON, ESQ.
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On behalf of Arlandis Shy

STEVEN SCHARG, ESQ.
On behalf of Keithon Porter

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Proceedings recorded by mechanical stenography.
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22
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I N D E X

	<u>Page</u>
Opening statement by Mr. Wechsler	4
Opening statement by Mr. Spielfogel	30
Opening statement by Mr. S. Scharg	43
Opening statement by Mr. Feinberg	50
Openings statement by Mr. Theis	56

E X H B I T S

<u>Identification</u>	<u>Offered</u>	<u>Received</u>
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N O N E

1 Detroit, Michigan

2 Tuesday, June 19, 2018

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5 (Proceedings resume with jury at 10:56 a.m.)

6
7 **THE COURT:** You can take a seat first. We
8 will first hear from the government for its opening
9 statement. Mr. Wechsler.

10 **MR. DALY:** Before we proceed, the defense
11 would make a formal motion to sequester witnesses.

12 **THE COURT:** Yes, but for the case agent, the
13 other perspective witnesses should leave the courtroom.

14 **MR. H. SCHARG:** I'll join in on behalf of
15 Mr. Fisher.

16 **THE COURT:** Okay.

17 **MR. WECHSLER:** If I could dim the lights for
18 the power point?

19 **THE COURT:** Yes.

20 **MR. WECHSLER:** I want to tell you a story
21 about a man named Johnny Jones. You will hear evidence
22 that when Johnny Jones was about 35 years of age, he moved
23 to an area of east Detroit, and when he moved to this
24 area, he had individuals knocking on his door, which is
25 all times of the day, morning and evening, and these

1 individuals wanted to buy drugs, and what he realized is
2 that drug sales were taking place both on his property as
3 well as the property next door. What he learned was that
4 these drugs sales were taking place by an enterprise
5 called the Seven Mile Bloods, and you will learn that one
6 of those individual's name was Robert Brown.

7 He approached Mr. Brown, and he said Mr. Brown, I
8 have kids. Please don't sell drugs on my property. Mr.
9 Brown was initially was amenable to this. He understood.
10 That didn't stand for very long.

11 You see, two other members of the gang, Jonathan
12 Murphy, as well as Corey Bailey, didn't like that somebody
13 was telling the Seven Mile Bloods what to do, and so
14 initially after this conversation with Mr. Brown, Corey
15 Bailey tried to jump -- tried to attack Johnny Jones in a
16 store one day. After that, Robert Brown went up to Johnny
17 Jones' wife and got into an argument with her at the
18 house, and when Johnny found out about it, he went up to
19 Robert Brown and tried to intervene. Robert Brown didn't
20 like that, and neither did Jonathan Murphy.

21 You see, Robert Brown hit Johnny Jones, and
22 Jonathan Murphy threatened Johnny Jones' life, showed him
23 a gun, and pistol whipped him. He hit him in the head
24 with the gun. Johnny called the police, and Jonathan
25 Murphy and Robert Brown were arrested.

1 Shortly after that, a man named Devon McClure came
2 up to the house and told Johnny's wife that there was a
3 price on Johnny's head. There was money out there to
4 attack Johnny Jones.

5 Johnny approached Robert Brown. He approached
6 Devon McClure, and he said, look. Keep my family out of
7 this. This is a beef that we have. This has nothing to
8 do with my family.

9 Devon McClure went away that day, but shortly
10 afterwards, Johnny Jones' house which shot up. Shot up.
11 Shortly after that -- and keep in mind nobody was injured,
12 thank God. Nobody in Johnny's family was injured. The
13 kids were okay, everyone was fine -- but that was not
14 enough, and shortly after that someone took a Molotov
15 cocktail, a bottle filled with gasoline and a rag, set it
16 on fire and threw it at Johnny Jones' house. It didn't
17 break the window. Again, nobody was injured that day.

18 That was enough for Johnny. Johnny decided he had
19 enough of the neighborhood after two years. He left.
20 This is all because Johnny Jones had the audacity to ask
21 members of the Seven Mile Bloods to stop dealing drugs on
22 his property and to stop talking to his children.

23 Good morning, ladies and gentlemen. My name is
24 Justin Wechsler, Julie Finocchiaro, Mark Bilkovic, Tare
25 Wigod. We are prosecutors in this case.

1 The story that I told you is just one incident
2 involving the Seven Mile Bloods. You're going to hear a
3 number of those incidents. You're going to hear a number
4 of incidents from 2003 to 2016. At the end of all the
5 evidence, we will present to you a number of charges.
6 There will be a lot of charges.

7 The Judge will give you instructions about those
8 charges, and you will follow those instructions. Nothing
9 that I say, nothing that the defense says about the law
10 controls. The only person that controls the law in this
11 courtroom is Judge Steeh, and he will give you very
12 specific instructions, but I do want to talk about one of
13 the counts, racketeering conspiracy.

14 Now there are five elements of racketeering
15 conspiracy. The first one is that the enterprise as
16 alleged in the indictment, Seven Mile Bloods, existed.

17 Second, a particular defendant was associated with
18 the Seven Mile Bloods.

19 Third, that a particular defendant knowingly
20 agreed to conduct or participate directly or indirectly in
21 the conduct of the Seven Mile Bloods.

22 Four, a particular defendant and at least one
23 other co-conspirator agreed that the defendant or
24 conspirator were engaged in a pattern of racketeering,
25 that is, committed at least two acts of racketeering in

1 furtherance of the Seven Mile Bloods.

2 And finally, activities of the Seven Mile Bloods
3 affected interstate or foreign commerce.

4 Let's break that down a little bit. When you hear
5 of racketeering and you hear of RICO, you think of the
6 Sopranos, you think of the old Italian mafia, you think of
7 the Godfather. Let's cut through all of that. Let's talk
8 about the elements and why racketeering conspiracy
9 actually applies in this case.

10 An enterprise for racketeering is simply a group
11 of people who share a common purpose, and have a
12 relationship with each over a period of time long enough
13 to achieve that purpose. That's all an enterprise is for
14 purposes of racketeering. They share a purpose, they have
15 a relationship with each other, and they have that
16 relationship over a period of time to satisfy that
17 purpose; in other words, it's just a team of people
18 getting together, and continuously operating towards the
19 same goal.

20 Now we're saying the Seven Mile Bloods are that
21 enterprise. The purpose or goal of the Seven Mile Bloods
22 enterprise is two-fold. We believe that one of those
23 purposes, the theory that we have, is that first purpose
24 or goal of this enterprise was to make money through the
25 drug sales, to make money through selling drugs.

1 The second purpose is protection from other gangs,
2 protection from rivals, protection from individuals who
3 are not members of the Seven Mile Bloods.

4 The time period that we're going talk about is
5 from 2003 to 2016 as I mentioned before. That's the
6 period of time that we believe the Seven Mile Bloods
7 existed for purposes of racketeering conspiracy.

8 The next element that I want to talk about briefly
9 is what it means to be a member or associate of the Seven
10 Mile Bloods. The element reads, a particular defendant
11 was associated with the Seven Mile Bloods. Associated.
12 Merely associated, and the importance of that I'll talk
13 about in a few minutes.

14 One of the other elements says that a defendant
15 and at least one conspirator engaged in or agreed that the
16 defendant or conspirator would engage in a pattern of
17 racketeering, that is, they would commit at least two
18 racketeering acts in furtherance of the Seven Mile Bloods
19 conspiracy.

20 Let's break that down very briefly. Congress made
21 things very complicated. They often do. An act of
22 racketeering for the purpose of this element is pretty
23 simple. Let's take murder for example.

24 Murder on its own is a crime. You can be charged
25 with murder. Congress decided for purposes of RICO, the

1 purpose of the racketeering conspiracy, murder if it takes
2 place to further the enterprise, can be considered an act
3 of racketeering, a racketeering act.

4 The same thing can be said for narcotic
5 trafficking. You can be charged with solely narcotic
6 trafficking. If that narcotic trafficking is in
7 furtherance of the enterprise, that could be considered an
8 act of racketeering.

9 So when we talk about this element, we're simply
10 talking about two or more acts of racketeering that
11 involved racketeering acts, two or more murders, two or
12 more drug trafficking that furthers the enterprise.

13 Now the elements talks about a defendant and at
14 least one other conspirator, they agreed that at least the
15 defendant or a conspirator would engage in those
16 racketeering acts, the murders, narcotic trafficking.

17 Because it can be a defendant or a conspirator,
18 you're going to hear a lot about conspiratorial acts, acts
19 that were committed by individuals not at these tables.
20 We will present numerous times where these defendants
21 committed racketeering acts, but we're also going to
22 present evidence of times other conspirators of the Seven
23 Mile Bloods also committed racketeering acts, because as
24 the rule reads, these gentlemen are held liable for other
25 acts carried out by my other members or associates of the

1 Seven Mile Bloods.

2 Finally, the element regarding interstate commerce
3 simply means in order for the federal government to
4 prosecute this case, there has to be some sort of
5 jurisdictional hook. That simply comes from drugs or guns
6 moving from one state to another. Pretty simple.

7 Everything that I will tell you right now is what
8 the government -- is what the evidence will show.
9 Everything that I will talk about from here on out is what
10 the evidence will show.

11 Let's get back to the Seven Mile Bloods. When we
12 talk about the Seven Mile Bloods, you're going to learn
13 that the investigation revealed that the Seven Mile Bloods
14 claimed a territory. They claimed turf, and called that
15 turf the Red Zone. You will learn that turf is on the
16 east side of Detroit, and it goes from Seven Mile to Eight
17 Mile, Gratiot to Kelly. That's their turf, and the reason
18 they claim this turf is that the individuals, the
19 associates, the members of the Seven Mile Bloods, they
20 grew up there. That's their neighborhood. They were
21 raised there together. They associated with each other in
22 that neighborhood.

23 So let's talk about the beginning of the Seven
24 Mile Bloods. The picture on the power point is a picture
25 that was taken from a search warrant done of Devon

1 Patterson's house.

2 In approximately 2003, a precursor, sort of before
3 the Seven Mile Bloods was formed. It was a precursor
4 group, and it was individuals in the neighborhood, Michael
5 Rogers, Devon Patterson, Jonathan Murphy, Julian
6 Patterson, who is Devon's brother and Quincy Graham.
7 Initially it included Anthony Lovejoy, and this group got
8 together, and they got together to sell drugs. It was a
9 precursor. It was before Seven Mile Bloods existed, but
10 it was this precursor group that would later grow into the
11 Seven Mile Bloods, and what they did in the Red Zone, they
12 sold drugs out of trap houses. It is simply a vacant
13 house. There are a lot of vacant houses in Detroit
14 obviously. It was a vacant house they used to store drugs
15 and sell drugs out of. So this precursor group is selling
16 drugs, and they are selling drugs from roughly 2003 to
17 2005.

18 In 2005 they started expanding. They start
19 recruiting other members. One of the individuals they
20 recruit is Corey Bailey. Corey Bailey goes by the
21 nickname Sonny or Cocaine Sonny. They recruit Devon
22 McClure, who goes like Block or Ryder. They recruit Billy
23 Arnold who goes by B-Man, Berenzo or Killa. These three
24 men, Bailey, McClure and Arnold, they will become some of
25 the most violent members of the Seven Mile Bloods, and

1 you'll hear about that later.

2 Around the same time period, approximately 2005,
3 other individuals are recruited into this gang, Jeffrey
4 Adams, Arlandis Shy, Jason Gill. Adams goes by Brick or
5 Product. Shy goes by Grymee or Vil. Gill, Whytes or
6 White Boy.

7 Additionally, two other members become part of
8 this group, Robert Brown, goes by RO, Eugene Fisher, Fest
9 or Fes. In this group, these eight individuals, they take
10 what was the precursors, a bunch of guys in the
11 neighborhood selling drugs, and they come up with the idea
12 they are going to become the Seven Mile Bloods.

13 And so these individuals, Bailey, McClure, Arnold,
14 Brown, Adams, Shy, Gill and Fisher, they become the heart
15 of the Seven Mile Bloods, the nucellus for lack of a
16 better word.

17 Now they are selling drugs in the neighborhood
18 from 2003 to roughly 2007. They are selling drugs out of
19 these trap houses. In 2007, Jason Gill, who goes by
20 Whytes or White Boy, he comes up with a different idea.
21 He has connections down in West Virginia, and he says,
22 look. We can make money down in West Virginia.

23 So Jason Gill starts buying up loose prescription
24 pills from individuals in Detroit, Roxicodone, oxycodone,
25 Vicodin. Someone would be prescribed let's say 50 pills,

1 and they would only need 10. Jason would buy the other 40
2 for a price, and then he would transport them down to West
3 Virginia and sell them for four, five, six times the price
4 that he paid for the excess pills up in Detroit.

5 And so Jason Gill sets up other members in West
6 Virginia. He sets up Murphy, Anthony Lovejoy, Quincy
7 Graham, Devon Patterson. These guys start living down in
8 West Virginia for periods of time, and they are running
9 the SMB operation down there. They are living in houses
10 down there. They are making sure the pills are coming in
11 and sold, and the money is being transported back up to
12 Detroit. So that's generally what happened out of West
13 Virginia between 2007 and 2011.

14 They are making tons of money. You'll hear
15 evidence that even without jobs, these guys become very
16 sophisticated pills salesmen. They are selling thousands
17 of pills at a time. They are making a lot of money. They
18 are becoming more sophisticated.

19 In 2011, those four individuals that I talked
20 about few seconds ago, they are taken over by new
21 individuals that come in, Derrick Kennedy, aka Dip. Dip
22 starts taking over the operation down in West Virginia.
23 You'll hear from Derrick Kennedy in this trial, Jerome
24 Gooch, goes by the name ROM or Dada, he starts taking over
25 the operations in West Virginia.

1 Now even though there are six individuals between
2 2007 and 2011 who are in effect living in West Virginia
3 making sure the operation is going on, this is an all
4 hands on deck situation for the Seven Mile Bloods. You
5 see, it takes Seven Mile Bloods individuals up in Detroit
6 to buy the pills. It takes Seven Mile Bloods members or
7 associates to transport them down to West Virginia,
8 members or associates sell them in West Virginia, Seven
9 Mile Bloods members or associates to bring the money back
10 up. It is an all hands on deck operation. And so while
11 individuals like Lovejoy and Kennedy, they are living down
12 in West Virginia because it is an all hands on deck
13 situation, you see other members of the Seven Mile Bloods
14 begin to get arrested in West Virginia, transporting
15 drugs, bringing money back.

16 And so you will hear evidence of for example,
17 Corey Bailey, Robert Brown, Devon McClure, Arlandis Shy
18 Devon Patterson, they are getting arrested in West
19 Virginia, and they have either drugs, money or firearms on
20 them, but again, it is an all hands on deck SMB, Seven
21 Mile Bloods operation. So that's what happening between
22 2003 and 2011-2012. It starts out as this precursor
23 organization, comes into the Seven Mile Bloods, they then
24 deal in West Virginia, and that's generally what happening
25 with the Seven Mile Bloods between those years.

1 Now even though the Seven Mile Bloods are selling
2 down in West Virginia, they are still the gang to be
3 reckon with in Detroit. Now the Seven Mile Bloods are
4 sort of like the Coca-Cola. The name Seven Mile Bloods is
5 sort of the Coca-Cola of products. Coca-Cola has Diet
6 Coke, Cherry Coke and Coca-Cola Classic. Seven Mile
7 Bloods are somewhat the same set up. There are
8 individuals within the enterprise that called them Seven
9 Mile Bloods. That's the Coca-Cola of the company. There
10 are also individuals who go by different names, Ruthless
11 Clan, SMB Juniors, The Kings, Hobsquad, 55. Those
12 individuals, they may not call themselves Seven Mile
13 Bloods, but they're still associated with the Seven Mile
14 Bloods organization, and that's what I alluded to you
15 earlier what it means to be associated versus full
16 membership when we talked about those elements.

17 Now when we talk about the Seven Mile Bloods, one
18 of the things that will come up often is the Number 55,
19 5-5, and the reason it comes up is because five is the
20 number associated with the national gang the Bloods. Five
21 is a number that is associated with the Bloods, and so a
22 lot of times you'll see SMB, Seven Mile Bloods, SMB
23 members or associates holding up a hand with a five to
24 show who they are a part of, part of the Blood
25 organization.

1 Additionally, you'll see tattoos, the red five
2 pointed star. The five pointed star is associated with
3 the Bloods, and so you'll see tattoos that are red with
4 five points.

5 Now when we talk about the Seven Mile Bloods, what
6 they will never do, they will never use the numbers four
7 and six, and the reason why they will never use four or
8 six is because four is associated with the Crips. That's
9 one of their rivals, and so what they'll do is called
10 dropping fours. Instead of holding up one hand with five
11 fingers, they will drop four. It's a sign of disrespect
12 of the rival gangs.

13 One of those rival gangs that is associated with
14 the Crips can be found in east Detroit, and that's called
15 the Hustle Boys. That's a rival to the SMB organization.
16 The Hustle Boys go by the name 4-2, and the reason why the
17 Hustle Boys go by 4-2, it is simply looking at a
18 telephone, H is 4 and B on 2. For the same reason Seven
19 Mile Bloods will often be referred to as 762 for the same
20 reason, S is on the 7, M is on 6 and 2 has the B.

21 But the Hustle Boys are not the only rivals to the
22 Seven Mile Bloods in east Detroit. They are rivals with a
23 number of gangs. This is a Facebook post that was posted
24 Jeffrey Adams. He a member of the Seven Mile Bloods, and
25 he writes: Public Service Announcement. SMB, we dont

1 fuck wit teameast, new skool, hustlebumz, 220. We not
2 cool. its on site. When, i c "n's" we put in 2 much work
3 2 let da streetz down its not beef its personal so n"
4 better strap dey seat beltz on an hope dey have a safe
5 ride str8drop.

6 What Jeffrey Adams is doing here is first is
7 letting anybody who reads it that he is a member of the
8 Seven Mile Bloods. He's identifying the rival gangs to
9 the Seven Mile Bloods on the east side of Detroit, such as
10 Teameast, New School, Hustle Bums, Hustle Boys, and when
11 he says str8drop, what he's saying is if any member of the
12 Seven Mile Bloods comes across these individuals, they
13 have to at least attack them. They are the rivals. Can't
14 let that stand.

15 Just like that post that you saw, there's going to
16 be numerous other posts. This is the Facebook generation.
17 Seven Mile Bloods, they are no different. They like
18 Facebook, Instagram, and they like videos, and they post
19 significant numbers of social media to their website.

20 Now that's generally what's happening with the
21 pills, the social media, the rival gangs. Let's talk
22 about the violent side of the Seven Mile Bloods.

23 You're going to first hear about a murder on
24 June 7, 2006 of a man by the name of Cleo McDougal. He
25 was in fight with Robert Brown, and Robert Brown lost that

1 fight. To put it bluntly, he was beaten badly. He was
2 kicked in the face three times. Very bloody face. Robert
3 Brown has a reputation in the Seven Mile Bloods as a
4 fighter. He has a reputation to uphold, and he doesn't
5 want to lose to a small guy like Cleo McDougal, and so
6 you're going to hear evidence that Robert Brown went back
7 to the Red Zone, the area controlled by the Seven Mile
8 Bloods, and he got an AK-47 that was being stored in a
9 garage for any member or associate to use for general
10 protection. He took that AK-47 out of the garage in the
11 Red Zone that was stored there for any SMB member or
12 associates to use for general protection against rival
13 gangs or anyone else. And he got that AK-47. His face
14 was bleeding. He said to Murphy, I want a ride. I'm
15 going back to the scene, and they proceeded to drive off.

16 Anthony Lovejoy, who you will hear from in this
17 trial, he was there when Brown came back with the bloody
18 face. He was there when Brown picked up the AK-47. He
19 was there when Brown and Murphy drove off. He will come
20 in and tell you about that.

21 So Brown goes back to the location where Cleo
22 McDougal lived, and he kicked down the door of McDougal's
23 apartment, and he shoots McDougal in the head killing him
24 instantly.

25 Now a man named Elroy Lucky Jones was not at all

1 lucky. Lucky Jones got convicted of this crime, and was
2 convicted of the crime twice because of a defect in the
3 first trial.

4 Lucky Jones was in prison for a number of years,
5 and then a witness comes forward and says, you got the
6 wrong guy. It was not Lucky Jones that committed that
7 homicide. It was Robert Brown, and the witness who came
8 forward was Jonathan Murphy. It was Jonathan Murphy who
9 drove Robert Brown back to the homicide site where Brown
10 killed McDougal.

11 At that point Brown gets investigated. The case
12 is reopened, and the court vacates. They dismiss the
13 judgment of conviction against Elroy Lucky Jones. He's
14 released from prison. The investigation continues, and it
15 turns out that it is Robert Brown who commits that
16 homicide.

17 Well, Robert Brown doesn't like Jonathan Murphy,
18 who goes by the name of Bleek, talking about him to law
19 enforcement, and Robert Brown is a rapper. So he puts out
20 an album. The name of the album is Betrayal. Stop
21 Bleeking, and one of the lyrics on the Stop Bleeking album
22 is the following: This "n" Bleek the cop so I gun him
23 down 100 shots out of the chop gun him down. The shit
24 aint goin to stop until I gun him down. You see, Robert
25 Brown didn't like that Bleek had talked to the police.

1 You don't snitch on SMB.

2 Let's move on to one of the more recent violent
3 acts. July 14, 2014. Billy Arnold, aka Killa, Berenzo,
4 he has a parole appointment on the Detroit's west side.
5 When he's at this parole appointment, he runs into almost
6 literally members of the Hustle Boys, the main rival of
7 the Seven Mile Bloods. Those individuals are Michael and
8 Martez Davis who go by the name the Twins. They are
9 referred to as the Twins, as well as Corey Crawford and
10 Djuan Page, who goes by the name Neff.

11 So when Bailey (sic) runs into these Hustle Boys,
12 calls his boys. Billy calls his gang. He places two
13 calls to Corey Bailey, one to Robert Brown, one to Jerome
14 Gooch, one to Quincy Graham and one to Devon McClure.

15 Corey Bailey -- let me back up. After the
16 appointment where the Twins happened to be at the same
17 place as Arnold, the Twins, as well as Crawford and Page
18 drive off. At some point their car is shot up. Michael
19 Davis is struck in the chest. He survives. Djuan Page is
20 struck in the eye. He dies a short time later.

21 Now what you're not going to hear in this case is
22 anything about a crime scene. You're not going to hear
23 that the police or EMS responded to a particular crime,
24 and the reason why is that when the individuals in the car
25 that got shot up were struck, they kept driving. They

1 drove off, and they tried to reached help. Their car
2 broke down after awhile, and when it was broken down, a
3 civilian took them to the hospital. When they got to the
4 hospital, the police are called because there were gunshot
5 wounds, and they were uncooperative. They would not help
6 out the police with uncovering of what happened.

7 What you will have evidence of is first off is the
8 appointment that Billy Arnold had, the appointments that
9 the Hustle Boys had, two calls from Billy Arnold to Corey
10 Bailey, you'll have cell phone information that
11 demonstrates that Corey Bailey traveled from the east side
12 of Detroit to the west side where the appointment was,
13 information that Arnold and Bailey traveled together, and
14 you'll have information about the shootings.

15 What you will also have is testimony from Derrick
16 Kennedy, a cooperator in this case, who will talk about
17 the conversations that took place after this homicide.

18 Now let's go back to Djuan Page, the guy who was
19 shot in the eye in that car. After he died, the Seven
20 Mile Bloods come up with a rap, and they rap about
21 shooting someone in the e-y-e. That's Djuan Page.
22 Because Djuan Page was murdered, his nickname was Neff and
23 he was a respected member of the rival gang, and the rival
24 gang 220, Hustle Boys, they get together, and they say,
25 we're tired of SMB. They get together and form an

1 Instagram page, and the Instagram page becomes a hit list
2 of sorts. It shows a bunch of members of the Seven Mile
3 Bloods pictures, and it serves as a hit list for rival
4 gangs of who they should take out start.

5 So you start to see a string of Seven Mile Bloods
6 members or associates who are shot. Between August 2014
7 and March 22, 2015, five individuals of the Seven Mile
8 Bloods on that hit list who end up getting shot. They all
9 survive except for Jason Gill, who is murdered.

10 After Michael Rogers is shot on March 22, 2015,
11 the Seven Mile Bloods, they come up with their own hit
12 list. They come up with their own hit list where they
13 post their own pictures of individuals that they want to
14 go after, and one of the first pictures that they post is
15 a picture of Djuan Page, Neff, who was struck in the eye
16 and died shortly thereafter. That's one of the first
17 pictures they post. But they also post another one that
18 sort of keeps the score. They say: The score we up
19 seven, and they start listing various individuals who over
20 the years they've killed. One of individuals is Neff,
21 Djuan Page, the one who was struck in the e-y-e.

22 Now in May 2015, a real gang war breaks out.
23 There was a gang war before, but now it is a real gang
24 war. You see on May 21, 2015, Devon McClure, one of the
25 founding members of the Seven Mile Bloods, and one of the

1 most revered and respected members, he's murdered. Devon
2 McClure sets off a fire storm for lack of a better word.

3 One May 1, 2015, the night that Devon McClure is
4 murdered, Ralpheal Carter is walking down the street with
5 his two and four year old daughters. Ralpheal Carter
6 appeared in a photograph of a rapper associated with a
7 rival gang. Ralpheal Carter is walking down the street
8 with his two and four year old when he sees a car
9 approach, and that car has two individuals in it, and in
10 almost a fortuitous chain of events, his daughters say,
11 hey, dad. Let's play tag. He agrees and they run. As
12 soon as they run, the car approaches, individual leans out
13 of the driver's side -- I'm sorry -- the passenger side,
14 and shoots Ralpheal Carter, paralyzing him instantly. His
15 two and four year old are safe. Ralpheal Carter is
16 paralyzed instantly. That was not enough. The individual
17 in the car kept shooting and shooting at Ralpheal Carter
18 seven more times. Now Ralpheal Carter, he survives. He's
19 paralyzed, but he survives.

20 You will hear evidence that not only was Ralpheal
21 Carter struck, but an elderly gentleman was sitting on his
22 porch about four blocks away and was struck by a stray
23 bullet. He also survived.

24 You will hear evidence that the individuals in the
25 car that night were Billy Arnold and Keithon Porter. The

1 AR-15 that was used to strike Ralpheal Carter was stored
2 by Eugene Fisher. You'll hear that the AR-15 that was
3 used was stored by Eugene Fisher and later taken by Billy
4 Arnold.

5 You will also hear that 000Bigblood -- that's the
6 name of the SMB hit list -- had a posting that they posted
7 fairly close after the shooting where they talked about
8 Ralpheal Carter's shooting.

9 Let's move to May 8, 2015, seven days after Devon
10 McClure is killed. On May 8, 2015, Matleah Scott, she was
11 Devon McClure's girlfriend. Matleah Scott finds members
12 of the Hustle Boys in a certain location, and she text
13 messages Billy Arnold. She gives Billy the location of
14 the Hustle Boys, and once they're armed at that location
15 Keithon Porter, Billy Arnold and Arlandis Shy, they go out
16 hunting. You'll hear cooperators say they used the word
17 "hunting." They find a vehicle that contains the Hustle
18 Boys. Devonte Roberts was shot and killed. Marquis
19 Wicker and Darrio Roberts were shot, but they survive, but
20 Devonte Roberts is murdered. Again the AR-15 that was
21 used for that murder was stored by Eugene Fisher.

22 That 000Bigblood account that SMB uses as their
23 rival hit list, posting appears. It says, Darrio Roberts,
24 the one that was murdered. That posting says, he thought
25 he was laughing. Got'em.

1 Let's move to May 10, 2015. On May 10, 2015,
2 Porter, Arnold and Brown, they come across the vehicle
3 with rival members again. In that car Darnell Canady,
4 Derrick Peterson and Jason Gaskin who left a relative's
5 house. It was Mother's Day. Porter, Arnold and Brown
6 find the vehicle, and shoot at it 62 times. Only Derrick
7 Peterson is struck, but survives. Again the AR-15 that
8 was used, stored by Eugene Fisher.

9 The fact that Darnell Canady survived that day
10 couldn't stand. So the Seven Mile Bloods hear about a
11 baby shower taking place for Darnell Canady's girlfriend
12 Tiffany Settles, and they find this baby shower, and they
13 approach it, and they shoot at the individuals in the
14 parking lot. Darnell Canady was shot but survives. One
15 of the individuals who was shot was a 15 year old, Anthony
16 Bowen, his first day on the job.

17 That's generally the story and the evidence that
18 we're going to talk about in the next several weeks.
19 We're going to talk about the drug dealing. We're going
20 to talk about a gang that turns into a larger
21 organization, and we're going to talk about the violence
22 that comes along with it.

23 How are we going to prove this to you? First,
24 we're going to try to keep it as chronological as
25 possible. We will talk about the older stuff first and

1 build up towards the more recent stuff. Part of that is
2 so you understand the formation of the organization and
3 how it got bigger, and hopefully that will make it easier
4 for you.

5 That will come in two caveats. The first caveat
6 is that some of our witnesses have lives like everybody
7 else, and they may not be able to come exactly when we
8 want them, and so we have to go out of order just a little
9 bit.

10 The second caveat is that the AR-15 that was used
11 in those murders and attempted murders, we're going to
12 talk about its recovery five months after it was first
13 used, and when we talk about its recovery, first that's
14 hopefully will give you context how it was used during the
15 crimes.

16 You will hear from victims in this case. You will
17 hear from Johnny Jones who I talked about initially. You
18 will hear from Darnell Canady, and you will hear from
19 other victims, from Anthony Bowen. You will hear from
20 cooperators, from Derrick Kennedy, who was one of the
21 individuals that was selling drugs in West Virginia, as
22 well as Anthony Lovejoy. They will both come in and talk
23 about both the drug dealing as well as violent acts that I
24 talked about.

25 To talk about cooperators, let's just put

1 something on the table. Some of these individuals have
2 done very bad things. Matleah Scott will come in, and
3 she's going to tell you how she sent Billy Arnold text
4 messages of the location of rival gang members. Some of
5 the things these cooperators have done rival what some of
6 these gentlemen have done. We don't expect you to like
7 these cooperators. These cooperators have pled guilty to
8 crimes. They've signed plea agreements with the
9 government, and expect a benefit for testifying.

10 What we do expect you to do is take the evidence
11 that they provide, compare it to other evidence, and
12 decide for yourself whether or not you believe the
13 cooperators.

14 We're going to bring in a number of law
15 enforcement officials. They will talk about -- some of
16 them will talk about very old acts, very old things from
17 2003, 2004, 2005. They are not going to remember anything
18 about those acts. I want to be clear about that. They
19 may have to rely solely on their police reports to talk
20 about those acts.

21 The reason why we're going to bring in some of
22 this older stuff is to show who was together at certain
23 times, to show who was around drugs at certain times, and
24 to corroborate the information that you're going to hear
25 from these cooperators.

1 As I said, you're going to hear social media
2 posts, just like the one Jeffrey Adams talked about when
3 it came to rival gangs. You're going to see the hit
4 lists. You will see photos and videos from phones that
5 were seized from defendants.

6 You will hear rap lyrics. Now these rap lyrics --
7 you're going to see videos -- these rap lyrics are not
8 just coming in because they are vulgar lyrics. They are
9 coming in because they will rival -- they will corroborate
10 real life events. You will hear them talking about e-y-e.
11 Other lyrics will come in because it corroborates real
12 life events. There is going to be some very vulgar
13 language. We will do our best to minimize it. At certain
14 points we will have to have the agent read some very
15 vulgar language into the record, but we will try to
16 minimize it.

17 You will see tattoos. These tattoos will
18 demonstrate Seven Mile Bloods members or associates
19 allegiance to the organization.

20 You will hear from forensic examiners. They will
21 come in and talk about they analysis they did on
22 ballistics casings that were recovered from crime scenes
23 and matched it up to the AR-15.

24 You will see text messages like the one we talked
25 about with Matleah Scott where she told Billy Arnold where

1 rival gangs were, and you will learn when we recovered a
2 phone or recovered a phone number, we were able to go back
3 to the phone company and gets what's called a cell phone
4 data. We can take the cell phone towers and determine
5 where an individual was at a certain location, a certain
6 time based on the cell phone tower data.

7 Now the defendants are represented by very capable
8 attorneys. They will do their best to tell you why the
9 government has not made its case. We're confident that
10 when you hear all of the evidence, and you see all the
11 exhibits that we introduce, that you will find the
12 defendants guilty of all the charges.

13 On behalf of United States of America, we thank
14 you for your service in this case. We recognize the
15 summer is not an idea time for this, but we thank you for
16 this, and I appreciate you taking the time this morning.

17 **THE COURT:** Thank you, Mr. Wechsler.

18 On behalf of defendants, Mr. Spielfogel?

19 **MR. SPIELFOGEL:** Thank you, your Honor.

20 Good morning, ladies and gentlemen. My name is
21 Keith Spielfogel. Together with Mr. Daly, we represent
22 Corey Bailey.

23 Now the government has just come before you and
24 told you that they are going to prove two things to you as
25 far as Corey Bailey goes beyond a reasonable doubt. The

1 first thing that they said they will prove is that Corey
2 Bailey joined a criminal enterprise, and I guess since
3 they are going back to 2003-2004, he did this when he was
4 about 15 years old.

5 The second thing they told you, and it may have
6 been hard for you to glean this from what the prosecutor
7 just said, but they accused him of having played a role in
8 the Djuan Page shooting that occurred.

9 So the two things they will prove to you beyond a
10 reasonable doubt is that an enterprised existed in this
11 case, and Corey was involved in a shooting.

12 Well, ladies and gentlemen, this is our
13 opportunity to tell you what we believe the evidence will
14 show, and I want to start by saying to you that when the
15 government says that they will prove these two things
16 beyond a reasonable doubt, they are 100 percent wrong, and
17 they are wrong for the most simple of reasons.

18 Number one, there is no criminal enterprise that
19 exists in this case.

20 Number two, Corey Bailey had absolutely nothing
21 whatsoever to do with what happened to Djuan Page.

22 So here's what I want to do. First, I will talk
23 to you about the nonexistence of the enterprise. Then I
24 will talk to you about why that's important in this case
25 in your deliberations. Then I will talk to you about the

1 Djuan Page situation that the prosecutor referred to, and
2 then one other piece of information that he just referred
3 to at the end here about rap videos, and what role they
4 play in this case, okay? So let's start with the
5 nonexistence of the criminal enterprise.

6 Ladies and gentlemen, the evidence that you're
7 going to hear is that this co-called enterprise had
8 absolutely no hierarchy whatsoever. They will tell you
9 there were no officers, no people who were assigned to do
10 any assignments. There were no people who congregated
11 together to do things in an official capacity. There were
12 no people who had different responsibilities or doing
13 anything. There was no hierarchy as you would expect in
14 any enterprise that exists.

15 This whole thing about this RICO conspiracy,
16 this was designed to go after the mafia. That's what this
17 enterprise was created about, the whole RICO thing.
18 There's absolutely nothing in this case that you will see
19 about an enterprise. They will talk about drugs sales.
20 There were drugs here and drugs there. You will see,
21 ladies and gentlemen, there was no place where they kept a
22 central place where you got your drugs, everyone in this
23 supposed so-called enterprise went and got their drugs and
24 distributed their drugs.

25 You will find out that not only was there not a

1 sharing of the profits, that this enterprise -- usually
2 when you think of an enterprise as you should an
3 organization -- you gather up all the profits and share
4 the profits. Not only did they not share profits, they
5 actually were in competition with each other. There were
6 no donations. There were no dues. There were no set
7 meetings. There were no initiations into this thing that
8 they are calling an enterprise.

9 Now ladies and gentlemen, what you're going to
10 see -- this is a precise meaning, and his Honor is going
11 to tell you what that precise meaning of an enterprise is
12 and he's going to tell you -- and actually let me back up
13 a second.

14 When he tells you the law on an enterprise, you
15 may very well hear from the government that, you know
16 what? All of these things that Spielfogel is talking
17 about, that these things have to exist as far as an
18 enterprise, all of the things that I just mentioned, the
19 Judge is going to tell you that they actually all don't
20 have to exist, and you can still have an enterprise, and
21 you know what? They are absolutely right.

22 You will not get a checklist at the end of the
23 evidence that will say no hierarchy, no keeping of drugs,
24 in competition with each other, no meeting, no
25 initiations, no dues, no this, no that. You're not going

1 to get a checklist, and you're not going to underline it
2 and say when you add all of this up, there is no
3 enterprise.

4 But the part they will leave out on the issue of
5 enterprise is that the fact -- and the Judge will tell
6 you this -- the fact that those things don't exist, may be
7 considered by you in determining whether or not an
8 enterprise existed in this case, and he will further tell
9 you -- and I want to get this exactly right -- he will
10 further tell you that this so called enterprise had to
11 have had enough organization so that its members operated
12 in a coordinated manner in order to carry out the alleged
13 common purpose of the group. That's what's he going to
14 tell you what an enterprise is.

15 You're going to see, ladies and gentlemen, there
16 is no organization here. It was not carried out in any
17 kind of organized manner whatsoever. These people were to
18 a large extent competing with each other, and certainly
19 there was no common purpose to what we are dealing with
20 here, and you know what's going to tell you that? Do you
21 know what's going to make it so you have a reasonable
22 doubt? The nonexistence of factors that he will ask you
23 to adopt.

24 Let me tell you where an enterprise exists in
25 this case. It exists in the attempt of the government to

1 take a group of young people -- and they were young.
2 We're going back to 03, 04, 05, whatever -- it's their
3 attempt to take a group of young people who grew up in a
4 neighborhood together. Some of these people, some of
5 these young men were playing basketball together when they
6 were in second grade wherever they could find a hoop
7 somewhere in the -- and you will hear this term all the
8 time -- in the Red Zone. These kids from the second
9 grade, a lot of them knew each other.

10 The only place where the enterprise exists is in
11 their attempt to take something that was designed for the
12 mafia to put them altogether and to say let's bring them
13 all into this courtroom, and we'll say they are an
14 enterprise.

15 Ladies and gentlemen, let me tell you something,
16 Corey Bailey never joined an enterprise. Corey Bailey
17 walked out of his home when he was a child, a young boy
18 and saw what was going on on the streets, around his house
19 in the Red Zone, and he saw what was going on on each and
20 every -- just about every corner that he grew up around.
21 This was a world he walked into.

22 You will learn that he walked into that world
23 with a mother who died when he was eight years old, and he
24 had absolutely no guidance, no one to help him navigate
25 the streets that were right outside of his door. He

1 didn't join an enterprise. He joined in an attempt to
2 simply survive in the world that was dealt to him.

3 Now ladies and gentlemen, I'm certain that he
4 would have liked it to have been different. There's no
5 doubt in my mind that he would have preferred to have
6 grown up like in New Jersey where I grew up, and there's
7 absolutely no question whatsoever that he doesn't want
8 this life for his little boy, but I tell you this, ladies
9 and gentlemen, so that you understand that the only place
10 where an enterprise exists is in their words. He didn't
11 join an enterprise. He walked out of this door and joined
12 the world that he was in and attempted to survive, and he
13 nothing whatsoever to do with an enterprise. They cannot
14 prove an enterprise because an enterprise does not exist
15 in this case.

16 Why is this important? Why is this important?
17 Why do I spend all of this time talking about an
18 enterprise? Some of you know the answer for that because
19 when I was talking to you in the beginning, I kept talking
20 to you about the elements and I brought that up over and
21 over. It's important because every single charge in this
22 case involving Corey Bailey requires that they prove
23 beyond a reasonable doubt that Corey Bailey was an
24 enterprise, that the enterprise existed.

25 You'll see that in some of the instructions it

1 will list it right off the bat. The first thing will be
2 you must find that an enterprise existed. In other things
3 you will see -- it will say it was part of a racketeering
4 activity. Whatever you see that word "racketeering",
5 think enterprise because they have prove an enterprise in
6 order to prove racketeering.

7 So really in one sense -- I hate to say this --
8 but in one sense your job will be made easier because once
9 you have decided that the government has not proven an
10 enterprise beyond a reasonable doubt, every accusation,
11 every count that they've brought against Corey, the oath
12 you took requires that you find him not guilty of those
13 charges.

14 Now I know that's easy for me to say, but here's
15 what I have to be concerned about. You have to be
16 concerned about that you will hear a lot of other things
17 in this case, and you heard already from the government a
18 whole bunch of other things. So you may begin your
19 deliberations and you say, you know what? You know what?
20 I really heard a lot of stuff here, and I know they talked
21 about this enterprise, and I know I have these
22 instructions from the Judge, but you know what I think I
23 will do? I will cut him a bit of a break on that. They
24 met four of the five elements, but this one they didn't
25 really meet it, but it's close enough. I'll cut the

1 government some slack. You want to know something? You
2 are the jury. There's 16 of you sitting here. Eventually
3 there will be 12 of you who will decide this case, and
4 reality of the situation is that as I sit here, you could
5 do that. You could actually do that. You could go back
6 there and say, they have not proven that beyond a
7 reasonable doubt. I don't like some of the other stuff.
8 I'm going to find that an enterprise existed.

9 What can I say to you? The only thing that I
10 can say to you is that forcing the government to prove
11 every element beyond a reasonable doubt is the foundation
12 of our criminal justice system, and to some of you I said
13 this before in jury selection, in my years of doing this
14 has convinced me that this is the greatest system of
15 justice on the face of the earth. All I can tell you is
16 that it would be wrong to do that. You are the jury.

17 Let's talk about this -- and the prosecutor
18 spent very little time on it -- but let's talk about the
19 Djuan Page situation, where I think they refer to Corey
20 having something to do about it, but I want to get it out
21 front.

22 The first thing is on that charge, they must
23 prove that he was involved in that murder beyond a
24 reasonable doubt, and his Honor is going to tell you what
25 that means, and to some of you I read what that means, and

1 he will tell you that a reasonable doubt can't be based
2 on -- it must be based on reason and common sense. It is
3 not based on pure speculation. He will say that. The
4 government will probably repeat that to you. He will then
5 tell you that proof beyond a reasonable doubt must be
6 proof that is so convincing, that you would not hesitate
7 to rely and act on it in making the most important
8 decisions in your own life.

9 In the Djuan Page shooting, I don't believe that
10 they will call one eye witness that Corey had anything
11 whatsoever to do with that shooting. That's my
12 understanding at this point. They will not call one eye
13 witness. So you're asking yourself, why in the world
14 would he be charged with that murder when they have to
15 prove it beyond a reasonable doubt without calling one eye
16 witness, and you got a little hint of the answer. The
17 answer was something about cooperators. We got
18 cooperating witnesses, and it was fair for them to say
19 they have done terrible things, but they are cooperating
20 witnesses.

21 Let me tell you what a cooperating witness is.
22 We can cut right through down to the core of it. A
23 cooperating witness is a person whose testimony has been
24 bought by the government. Plain and simple, and the
25 government hasn't paid for that testimony in cash. They

1 don't cut a check for \$20,000 to the witness or something
2 like. That has been paid for in something that is far
3 more precious than money. It's been paid for in freedom.
4 People who are looking at life sentences, the government
5 reduces it and says, we'll make a recommendation of 10
6 years, but you're free to argue for probation. A person
7 who is looking at nine years, suddenly winds up with three
8 years, and you will hear it over and over again. That's
9 what a cooperating witness is.

10 I want to tell you that if they bring in any
11 cooperating witness that has something of any kind of
12 importance to say about Corey, let's go back to the
13 framework of proof beyond a reasonable doubt. I say to
14 you, if that person came to you and told you something,
15 and you were asked to act and rely upon it in making the
16 most mundane decisions in your life, the little ones, you
17 wouldn't rely on them in making that kind of a decision,
18 and what we are doing here in this courtroom, and what we
19 will be doing for the next several weeks, is you will be
20 called upon to make what I submit to you is one of the
21 most important decisions in your life. The government
22 will never prove beyond a reasonable doubt anything about
23 Djuan Page.

24 There's one more thing that I have to talk to
25 you about because he brought it up at the end, rap video.

1 Rap videos. Corey Bailey is a rapper. I actually
2 listened to some of his albums. He's actually very good.
3 Rap video. Rap music. What do they sing about? What do
4 they rap about? They rap about things that are real.
5 They rap about things that they imagine. They rap to
6 build up their own street credit. The more street credit,
7 the more they make themselves look big, the more hits they
8 get on these rap videos. The more hits they get on it,
9 the bigger they become, the more money they make.

10 The government has said that they will play the
11 rap videos. You know when I think about it a little bit,
12 when doing that, for these kids who grew up in that
13 neighborhood, in the world they grew up in, you kind of
14 had one of two dreams. If you weren't big enough or
15 talent enough to dream about being in the NBA, a lot of
16 young men dreamt about being famous through rap videos,
17 and you will hear testimony from several witnesses that
18 they too were rappers.

19 But the government has said, we're going to play
20 these rap videos for you. They acknowledge to you that
21 they are vulgar, there is racist language in them, there
22 is sexist language in them. That's why in the
23 questionnaire we asked you if you could still be objective
24 if you heard that kind of language, and they will play
25 this.

1 Well, the problem for me is that if they are
2 going to play them, we will play them. We will play some
3 of them to show you the context of what these rap videos
4 are like. We will play some of the most famous rappers,
5 people who won Grammy awards, people who have had million
6 of hits to show you what that what these raps are that
7 they are playing, they are taking it out of context, and
8 what the real world of rap video is.

9 But I will tell you this, these rap videos have
10 absolutely no place in this trial, and I will tell you
11 this, if the government won't play them, I promise you
12 that I won't subject you to listening to this vulgarity
13 and everything else in them, but if they do, I am going to
14 ask you, as I will with all the other evidence, to focus.
15 It's not going to be easy, but we have to keep our focus
16 on the two important things in this case: Have they
17 proven beyond a reasonable doubt the existence of an
18 enterprise? Have they proved beyond a reasonable doubt
19 that Corey had anything whatsoever to do with Djuan Page?

20 We say to you that if you will do that, if you
21 simply do that and focus on whether they met their burden
22 of proof beyond a reasonable doubt, you will sign the
23 verdict forms as to Corey that simply indicate that the
24 government has not met its burden of proof beyond a
25 reasonable doubt, and you will sign the verdict forms

1 finding him not guilty, and I thank you very much for your
2 time.

3 **THE COURT:** Thank you, Mr. Spielfogel.
4 Mr. Scharg?

5 **MR. S. SCHARG:** Good morning, ladies and
6 gentlemen.

7 **ALL JURORS:** Good morning.

8 **MR. S. SCHARG:** Good morning, ladies and
9 gentlemen. My name is Steven Scharg, and I represent
10 Keithon Porter, who seated at the end of the table.

11 As you know, there's three sides to every story.
12 You already heard the prosecutor's theory of their case.
13 You will hear the theory of my case, and then your job as
14 jurors is to make the decision of whether these
15 individuals -- and I'm talking especially to Mr. Porter --
16 whether he is guilty of these charges alleged by the
17 government, and you will make this decision based on the
18 evidence that you will hear from that witness stand.

19 You will hear that there had been -- or there will
20 be almost 200 witnesses called by the government. You
21 will hear that there's going to be possibly 500 exhibits
22 presented by the government. However, remember when
23 sitting here in this jury box and listening to all of
24 these hundreds of witnesses, and listening to what
25 exhibits are presented by the government, remember the key

1 principles that the Judge explained to you earlier today
2 and last week: One, what I say, and what the government
3 says is not evidence. The only evidence that you will
4 have to decide is what you hear and what is shown to you
5 from that witness stand.

6 Two, the presumption of innocence. As you're
7 sitting here listening to these witnesses over and over
8 and over, hundreds of people coming forward to talk about
9 this case, remember the entire time that you're sitting
10 here until time you go into the jury room, Mr. Porter is
11 presumed innocent.

12 Burden of proof. We do not have to prove anything
13 to you. I don't have to get up at the conclusion of the
14 government's case and put on any witnesses if I feel they
15 are not needed. The government has the burden of proof to
16 prove that they are proving their case beyond a reasonable
17 doubt that Mr. Porter did what they claim he did.

18 Ladies and gentlemen, Mr. Wechsler got up in his
19 opening statement and mentioned to you about an incident
20 that happened on May 1, 2015. Before I get into the facts
21 of that case, I think the evidence will show -- I want you
22 to know that during the entire trial, you will not see Mr.
23 Porter, Mr. Keithon Porter in any rap video. You're not
24 going to see him in any Instagram text messages. You will
25 not see him in any Facebook videos.

1 What you will hear, ladies and gentlemen, is that
2 on May 1, 2015 as Mr. Wechsler told you on a street called
3 Troester in the city of Detroit, I anticipate that the
4 evidence is going to show to you that a person by the name
5 of Ralpheal Carter was walking with his two kids down the
6 street. As he is approaching his family home on Troester
7 Street, I anticipate Mr. Carter will tell you that he, as
8 he is approaching the house, his kids are in front of him,
9 and I anticipate that you will hear that a vehicle was
10 observed coming down the street very slowly.

11 I anticipate that Mr. Carter will say that
12 instantly he heard gunshots. His kids ran in terror.
13 They ran to the house, and before Mr. Carter could get to
14 the house, he is shot down. He laid down. As Mr.
15 Wechsler told you he was down, and he was paralyzed.

16 As you know, I'm sure in every shooting in the
17 city of Detroit the police come to the scene. The police
18 were called. They did a thorough search of the
19 neighborhood for who these individuals were that shot Mr.
20 Carter and almost injured his children, and I anticipate
21 that you will find out through this investigation that
22 nobody saw Keithon Porter anywhere near the house on
23 Troester Street that day.

24 I anticipate that you will hear from officers that
25 arrived on the scene that they knocked on the neighbor's

1 doors to see if anyone had a video on their houses to see
2 if they saw any description of anyone involved in the
3 crime, and I anticipate you will hear that they have no
4 witnesses as to who fired the shots that paralyzed
5 Ralpheal Carter. No eyewitnesses were given to any
6 Detroit Police Officer on that day nor to this day.

7 I also anticipate, ladies and gentlemen, that on
8 May 8, 2015 as Mr. Wechsler told you, that on the streets
9 of Duchess and Craft in the city of Detroit, there was
10 another shooting, and as Mr. Wechsler told you there were
11 a number of individuals who were there that day. One
12 specifically was Devonte Roberts who was murdered.

13 Mr. Roberts was in a vehicle with three other
14 people. I believe you will hear from the witnesses that
15 Mr. Roberts was in the car with his brother Darrio.
16 You're going to hear there was another driver by the name
17 of Marquis Wicker. He was in the car with them, and
18 another individual by the name of Jesse Ritchie.

19 I anticipate that you will hear that the evening
20 that this happened, they were ambushed. These individuals
21 were ambushed in their vehicle, and I anticipate that you
22 will hear that there was possibly two individuals who were
23 involved in the shooting. However, Detroit police
24 officers were summoned to that area after they heard shots
25 were fired, person was hurt. They came to the scene, and

1 they were not able to identify anyone, including Mr.
2 Porter, a person who shot at these four individuals.

3 I anticipate, ladies and gentlemen, the evidence
4 will show more than just that. You will hear information
5 from the government I believe, and as Mr. Wechsler told
6 you, they recovered cell phones during this entire
7 investigation.

8 I submit to you, ladies and gentlemen, that you
9 will hear no evidence whatsoever that not one phone was
10 recovered from Keithon Porter during this entire
11 investigation of 2003 to 2018. They did not ever recover
12 a cell phone from Keithon Porter's person that would tie
13 him to this these two shootings on May 1st or May 8th of
14 2015.

15 As we also know from Mr. Wechsler and my
16 co-counsels, that there are informants. You're probably
17 wondering in your mind, if there are not any eyewitnesses,
18 then how is Mr. Porter even here today? As you remember,
19 we don't have to prove why he is here today. The
20 government has to prove beyond a reasonable doubt that he
21 did something wrong.

22 I anticipate, ladies and gentlemen, that when you
23 hear these witnesses, such as Derrick Kennedy, who is, I
24 believe, one of their confidential informants, I
25 anticipate that you will hear from Mr. Kennedy that he's

1 the person who threw Mr. Porter into this mess. I
2 anticipate that you will hear that Mr. Kennedy really
3 doesn't even know Mr. Porter at all. And I also
4 anticipate that you will hear that Mr. Kennedy was not
5 present on May 1, 2015 at the shooting on Troester Street.
6 And I also anticipate you will hear that Mr. Kennedy was
7 not present at the time of the shooting on May 8, 2015 on
8 Duchess Street and Craft in the city of Detroit.

9 I believe you will hear that Mr. Kennedy had to
10 come forward to the government and talk to them to get the
11 deal that he wanted to get, to get him out of the
12 situation that he was facing at the time, and you'll hear
13 more about that during the trial.

14 I also anticipate that you will hear that when Mr.
15 Kennedy met with the government and their agents about
16 whatever he was talking about, that he did not voluntarily
17 come forward and say that he knew who did the shooting on
18 May 1st and May 8th. And what I mean by that, ladies and
19 gentlemen, you would think that if a person was an
20 eyewitness to a situation and trying to help somebody,
21 they would immediately come to the police department and
22 say, look. I have information to give you. I know who
23 did the shooting on such and such a date.

24 I anticipate that you will hear from Mr. Kennedy
25 that didn't happen on his part. That didn't happen. He

1 didn't come to the police to tell them what happened or
2 who did the shooting here on May 1st or May 8th, but it's
3 when he wanted the deal, he made the suggestion after he
4 could work out his own deal for what's best for Mr.
5 Kennedy.

6 So I anticipate, ladies and gentlemen, at the
7 conclusion of this case, you will find that there really
8 isn't any evidence against Mr. Porter. I anticipate that
9 you will hear from that witness stand that there's, by the
10 government, they will try to present to you that there is
11 phone records that will show that Mr. Porter was near the
12 shooting scenes, when Mr. Carter was shot, and when the
13 individual Mr. Roberts was killed on May 8, 2015. The
14 only problem is, ladies and gentlemen, the phone they are
15 trying to use was not Mr. Porter's phone.

16 And I anticipate, ladies and gentlemen, that at
17 the conclusion of that case, I am going to ask all of you,
18 all of you to come back with a verdict of not guilty of
19 these charges. Thank you.

20 **THE COURT:** Thank you, Mr. Scharg.

21 Mr. Scharg?

22 **MR. H. SCHARG:** Good afternoon, ladies and
23 gentlemen. Good afternoon, your Honor.

24 As the attorney for Eugene Fisher, we have the
25 opportunity to make an opening statement at this time, and

1 we will reserve that opportunity to address the jury at
2 the conclusion of the government's proofs. Thank you.

3 **THE COURT:** Thank you.

4 Mr. Johnson?

5 **MR. JOHNSON:** Good morning, ladies and
6 gentlemen of the jury. I represent Devon Patterson. At
7 this time we have the opportunity to make an opening
8 statements, and we too reserve that until a later time.
9 Thank you.

10 **THE COURT:** Thank you, Mr. Johnson.

11 **MR. FEINBERG:** Good afternoon.

12 **ALL JURORS:** Good afternoon.

13 **MR. FEINBERG:** I am Jim Feinberg. I
14 represent Robert Brown, II.

15 You heard the government give their opening
16 statement. One of the first things it indicated is that
17 there's lots and lots of charges. Most of the charges are
18 redundant. They are the same charge with different
19 titles.

20 It is the defense position that if the government
21 says that Mr. Brown is guilty of the same crime with a
22 different name over and over and over again, you will
23 believe what the government says. In politics, it is very
24 common to say the same thing over and over and over until
25 the people start believing it.

1 It is the same thing in this case. Just because
2 Mr. Brown is being charged with lots of different crimes,
3 doesn't mean that it is true.

4 Also, one of the things that the government said
5 that they will prove is that one of the acts in
6 furtherance of the enterprise is the selling of drugs, and
7 he used the words "they made tons of money." What you
8 will not see on behalf of Mr. Brown is any proof by the
9 government is that he had any money, that he lived a
10 lifestyle where he was making tons of money.

11 Listen to what not only what the government is
12 attempting to prove, the evidence, but also the lack of
13 evidence that the government is not able to show.

14 Violence is one of the important areas of the
15 enterprise. The government suggested that on June 7,
16 2006, Mr. Brown killed Cleo McDougal. He said that Mr.
17 Brown was a fighter. He got the best -- Mr. McDougal got
18 the best of him. He was bleeding, and that Mr. Brown went
19 and got an AK-47 and was brought back to the scene by Mr.
20 Murphy, Jonathan Murphy, who the government says you will
21 now hear from Mr. Murphy that he was present when Mr.
22 Brown killed Mr. McDougal.

23 Of course, the government didn't tell you that
24 shortly after the murder, a person by the name Elroy Lucky
25 Jones was arrested, charged with first degree murder and

1 went to trial in the state court and was found guilty. He
2 was found guilty because witnesses testified that they saw
3 Lucky Jones kill Mr. McDougal.

4 Well, after the first trial the case had to be set
5 aside because the court reporter -- not Mr. DiBartolomeo,
6 who I have known for more years than the two of us would
7 admit -- the notes were lost. So they had to retry Elroy
8 Lucky Jones, and what happened at the second trial? Lo
9 and behold, he was convicted of first degree murder
10 because of the evidence presented to the jury, and the
11 jury found him guilty beyond a reasonable doubt. But now
12 Mr. Murphy comes forward and says, I was there. I saw Mr.
13 Brown commit the murder.

14 What the government is not going to tell you or
15 didn't tell you in their opening, the reason that Elroy
16 Lucky Jones was convicted is that the brother of
17 Mr. McDougal, who knew Elroy Lucky Jones for a long time,
18 identified Lucky Jones as the killer. You can't get
19 better identification than the brother of the decease who
20 knew the shooter. But the government isn't satisfied with
21 that identification. They are going to call Mr. Murphy.

22 What the government didn't tell you in their
23 opening about Mr. Murphy, and what the defense is going to
24 show you, is that Mr. Murphy testified at a prior hearing
25 about the murder of Mr. McDougal. What did he testify to?

1 He testified that the reason he remembers everything is
2 because Mr. Brown, when he had the AK-47 and was going to
3 go kill Mr. McDougal, told Mr. Murphy, go take care of my
4 son. Mr. Brown supposedly told Mr. Murphy, go take care
5 of my son. So Mr. Murphy who knew his son since birth,
6 went and got Mr. Brown's son the same day that the
7 shooting occurred. What the government didn't tell you is
8 that Mr. Brown's son was born two months later. His son
9 wasn't born on June 7, 2006.

10 A cooperating witness generally is someone who is
11 charged with a serious crime, sometimes the same crime
12 that the defendants are charged with, and are facing 20
13 years, life, 30, huge numbers. They play "Let's Make a
14 Deal." I confess he did it, and what happens when they
15 make let's make a deal? They don't get life. They don't
16 get 30. They don't get 20. They get a real good deal.

17 Now understanding that someone who is agreeing to
18 do 10 years, 12 years, that's serious time, but nothing
19 compared to what they were facing before the TV show
20 "Let's Make a Deal," and the deal that they made was to
21 safe themselves, and they are willing to say anything that
22 is necessary to safe themselves.

23 Now Mr. Murphy says, I was with Mr. Brown when
24 the shooting occurred. I was taking care of his son who
25 didn't exist at the time. He says he was a witness to the

1 murder.

2 The prosecutor during questioning of the jury
3 indicated to you this is not TV. Don't expect DNA or CSI.
4 Well, let's take them for their word. They are not going
5 to produce any crime scene investigation or DNA involving
6 the shooting of Mr. McDougal.

7 Why is that important? The testimony was that
8 Mr. Brown was suppose to have been beaten up and his face
9 was bloody. Now blood has DNA. You get into fight with
10 someone, you have the DNA on the person that you were
11 fighting with. No DNA of Mr. Brown. No crime scene
12 investigation showing that Mr. Brown was present. No
13 hair. No DNA. No skin. Nothing, but this is kind of
14 evidence that the government is going to say is sufficient
15 for you to believe the evidence against Mr. Brown.

16 Same thing with the shooting of May 10, 2015.
17 There's no evidence at all other than let's make a deal of
18 Mr. Brown being present when there was a shooting.

19 I think what the prosecutor says is 62 bullet
20 holes in the car. No evidence whatsoever other than
21 someone wanting to make let's make a deal to show that Mr.
22 Brown participated or was even present during that
23 shooting.

24 Mr. Spielfogel indicated the enterprise, the
25 racketeering. Everything that Mr. Brown is being charged

1 with has to be part of the enterprise. Not himself. Not
2 that he wanted to do something on his own, but that it was
3 all part of the enterprise. There's no showing that Mr.
4 Brown was part of the structure or hierarchy, even though
5 he had been in the so-called Seven Mile Bloods for a long
6 time. He wasn't an officer. There was no official
7 capacity that Mr. Brown is alleged to be taken part of,
8 and no proof that he ever participated in any
9 organizational capabilities of the enterprise.

10 And again, they made tons of money according to
11 the government, and that there it was sharing because it
12 was part of the enterprise. There's no testimony at all
13 that Mr. Brown made or shared in any proceeds of any of
14 this alleged enterprise.

15 This is going to be a long trial. There are a
16 lot of witnesses. When the witnesses come forward and
17 attempt to testify against Mr. Brown, I want you all to
18 listen carefully and say again, is this the kind of
19 testimony, the kind of evidence that you would want a
20 loved one who maybe facing trouble, to have that person
21 testify against you or your love ones?

22 Consider the motive for them to lie, the motive
23 for the government to bring them in to testify. They are
24 not charging Mr. Brown with a crime and hoping for a
25 verdict of guilty. They are putting four assistant U.S.

1 Attorneys, a helper -- a paralegal with their office, and
2 Agent Ruiz who is a special agent, and again, all of these
3 150 witnesses. They are not putting all of them together
4 just on an if come. They are hoping to convince you by
5 all of this evidence that doesn't really bear belief in
6 order to convict Mr. Brown of any crime.

7 At the conclusion of the case, we're going to go
8 through the evidence, and we're going to go through the
9 witnesses as to whether or not those witnesses should have
10 any belief against Mr. Brown, and whether or not the
11 government has proved beyond a reasonable doubt that Mr.
12 Brown is guilty. Thank you.

13 **THE COURT:** Thank you, Mr. Feinberg.

14 Mr. Magidson?

15 **MR. MAGIDSON:** I will defer to Mr. Theis.

16 **THE COURT:** Okay. Thank you.

17 **MR. THEIS:** Good afternoon. I am John
18 Theis. Along with my co-counsel Mark Magidson, we
19 represent Arlandis Shy. Mr. Shy, we introduced to you
20 earlier, a couple of weeks ago when we chose the jury, the
21 gentleman seated over there.

22 I have good news. This is the last one of the
23 opening statements that you're going to listen to, and I
24 have better news in that having in listening to some of
25 the other remarks that the other lawyers made, I have been

1 able to edit some of it out so I'm not repeating things
2 that they said, because I think that would be something
3 that would not be a good idea. I will try to do that, but
4 there are some things that are so important and so
5 critical to the decision making process that you will be
6 involved with over next several weeks, that I do have to
7 talk a little bit how they apply to Arlandis Shy.

8 As you know, we have been telling you -- and the
9 Judge has told you again today -- about the burden that
10 the government has of proving people guilty, and the
11 standard of proof beyond a reasonable doubt, and the
12 reason we talk about that, and the reason we bring it up
13 so often is that it is proven to be the best way of making
14 decisions about evidence, and determining whether the
15 evidence proves somebody guilty beyond a reasonable doubt
16 is to have the government introduce -- the burden of
17 introducing that evidence, and that way we avoid making
18 mistakes, because we all know that you want to get this
19 right. Jurors, of course, want to make their decision the
20 right way, and you will get instructions about what things
21 you can consider.

22 But the words are not just legal words that we
23 throw around. They mean something, and the reason for the
24 last couple of hundred years, as proven to be the best way
25 to decide cases, is that only by holding them to a high

1 standard of proof, can we make sure that the decision of
2 someone, whether they are guilty or not, is the right
3 thing.

4 The reason they are not going to be able to prove
5 Arlandis Shy guilty of any offense in this case, any of
6 the charged offenses of this case is because he is not
7 guilty of being a racketeer. He is not guilty of being a
8 member of a racketeering conspiracy. He is not guilty of
9 any what they call substantive counts, the counts that you
10 will hear evidence about, the events that they say that he
11 participated in, and if they were, they would have
12 sufficient evidence to prove it, but they don't, and they
13 will not be introducing that evidence in this case.

14 Now the government told you today and earlier on
15 in jury selection, that this isn't television, and one of
16 the other lawyers mentioned it today. I think while you
17 were sitting back there for hours, you must have realized
18 that this must not be like television because there is a
19 lot of time that these things take to introduce all of
20 this evidence when you have number of defendants and a
21 number of events that the government is going to introduce
22 evidence about.

23 And when they said there's not going to be
24 somebody running in with DNA that's going to prove
25 somebody guilty, that to me diminishes the fact that, in

1 fact, there are resources that the government has that
2 have developed over the years, scientific resources,
3 techniques that do help determine whether somebody is
4 guilty or not. Otherwise all trials would just be he said
5 she said situation, and you would have to decide based on
6 way the witness presented themselves, and what they said,
7 whether they contradicted themselves or contradicted by
8 other people. That would be the only way to determine
9 whether somebody is guilty.

10 But there are things that the government can do,
11 and the government told you this morning that when they
12 got some of these witnesses who very frankly have a lot of
13 baggage, who have said things that contradicts what they
14 will say in court, who are themselves guilty of serious
15 offenses, who made deals to avoid lengthy periods of time,
16 and so the government says to you, but don't worry. We
17 will be able to deal with it because we have evidence to
18 corroborate what they say, and I'm telling you -- and I
19 want you to listen -- hold me to what I say just like I
20 want you to hold the government to what they say -- there
21 will not be any such corroboration of any of the things
22 that they are saying about Arlandis Shy.

23 They do have resources. They have got phone
24 records. They've got text messages. They've got
25 ballistics tests. They've got all sorts of things that

1 they now use, techniques. In fact, you will see some of
2 them concerning other individuals in this case, but
3 there's nothing about that with Arlandis Shy.

4 So when they tell you that it is not like TV and
5 we don't have those things, they will introduce evidence
6 like that, but not against the defendant, and I will talk
7 to you a little bit about what the evidence I believe is
8 going to show about Arlandis Shy, but first I would like
9 to break down for you a little bit about what the
10 allegations are against him and what he's charged with.

11 Like you heard the other lawyers, he is charged
12 with participating in this racketeering conspiracy.
13 Basically they are going to try to tell you, and I think
14 they said it today in opening, that if you're a Seven Mile
15 Bloods, you're guilty of being in the racketeering
16 conspiracy, and that's not the law, and you will be given
17 the law at the end of this case, and you will decide
18 whether Arlandis Shy's participation in this puts him in
19 the racketeering conspiracy. Not just if hanging around
20 with the Seven Mile Bloods, you must be guilty. That is
21 not the law.

22 What you will hear is he, like the other
23 defendants in this case, grew up in the neighborhood where
24 he knew some of these people. Went to school with them.
25 Hung out with them in the neighborhood. Saw them in the

1 community. Not all of them -- in fact, you will hear the
2 government own witnesses tell you that Mr. Shy was not
3 around a lot of the time. One of the government's main
4 witnesses will say, I didn't see him that often. He isn't
5 always present, and listen. When you're hearing the
6 testimony about who is at specific places and times, a lot
7 of the time Arlandis Shy is not around, but these are
8 people that he knows, and he's not running away from his
9 friendship with other individuals. He did know them, but
10 some of this stuff goes back late 2000.

11 So to say that he's -- because he's hanging out
12 with these people, of course, that's not enough to put him
13 in the racketeering conspiracy.

14 But the government also alleges, in addition to
15 charging him with conspiracy, they allege a participation
16 and certain things called overt acts. The indictment in
17 this case charges the racketeering conspiracy, and then
18 alleges certain things that are called overt acts, and
19 what that means is this, a conspiracy is just an
20 agreement. It is two people agreeing to do something, and
21 under most laws you have to do something more than just
22 have an agreement. You have to do something to further
23 that agreement.

24 So they charge in the indictment a number of what
25 they call these overt acts, and they kind of give you a

1 road map as to where the government feels each one of the
2 individuals is in participating in the case.

3 Well, the overt acts that they referred to as to
4 Arlandis Shy, it starts with three drug cases or three
5 situations where he is suppose to be around drugs. They
6 are in 2009, two events in 2009, and a third event in 2008
7 back when he was a teenager, almost 10 years ago. That's
8 what they have charged. This is proof that he was acting
9 in furtherance of the Seven Mile Bloods racketeering
10 conspiracy. They had to go back that far to find events
11 to charge overt acts with regard to the drugs, and you may
12 hear other testimony. I don't know what all of the
13 witnesses are going to say. You may hear other testimony
14 that he was had some contact with drugs later, but those
15 are the only ones they set forth in this road map of overt
16 acts.

17 There are a couple of other events that they also
18 charged that actually did happen later than sometime a
19 decade ago, and one of them is an event where they are
20 alleging that he was in a car. He was driving a car, and
21 another individual, the passenger in the car when they are
22 driving away from a gathering, a party, they police come
23 and try to stop them, and the passenger -- and the
24 government's witness will say this. This is not just me
25 telling you -- the government's witnesses will tell you

1 that the passenger threw a gun out of the car, and they
2 charged that as something that is he has a driver of the
3 car, when the passenger threw it out, that's an overt act
4 in furtherance of conspiracy.

5 But most -- the most serious and most violent act
6 charged with regard to Arlandis Shy occurred from May 8,
7 2015, and that is also not only an overt act, but that
8 accounts for a number of the separate counts in the
9 indictment that alleges his participating.

10 So I will spend a few minutes talking to you about
11 that May 8, 2015 event because one, it was a serious act.
12 It is murder, and other people were shot, and they have
13 alleged that Arlandis Shy and two other people were in the
14 car in which the shots were fired.

15 It may surprise you, I don't know, that there will
16 be no witness who is going to come to court and testify
17 that they saw Arlandis Shy in that car involved in that
18 murder.

19 They are going to introduce, however, some of this
20 physical evidence that I was talking about earlier to
21 prove that individuals were involved with that murder and
22 with that shooting. Not against Arlandis Shy, but it
23 shows you that when they got the evidence, they can
24 present it. They will show you texts between one of their
25 witnesses and Billy Arnold, the guy that did the shooting,

1 or that they alleged did do the shooting. They will show
2 you cell phone records, not of Arlandis Shy who
3 voluntarily gave up his phone for them to check to see if
4 there was any records of it. Nothing like that will be
5 introduced.

6 They also obtained shell casings or bullet
7 fragments that are later compared to a gun that was
8 recovered from someone else involved in this case, not
9 Arlandis Shy.

10 So they have physical evidence that will support
11 the involvement of others. So they can do it when someone
12 is involved.

13 So if there's nobody saying that he was an
14 eyewitness saying that he was there participating in this,
15 and there is no physical evidence to say it, how can they
16 say that he was involved in it?

17 Well, you heard this morning the government
18 telling you about another way they introduce evidence, and
19 that is by making deals with people to get them to tell
20 them what is happening, but even that, Derrick Kennedy, a
21 convicted felon, drug dealer, who will testify is going to
22 tell you that he got arrested. He was charged. He is
23 facing big time as you heard, and he decides -- he and his
24 lawyer talks to the government and say, if you give me x,
25 I'll give you y, and what he gives them -- you know. They

1 just don't make a deal with you if you tell them what you
2 did. You have to give them what somebody else did, and
3 what he tells them is not I saw Arlandis Shy participate
4 in this shooting, this murder. What he tells them is
5 Arlandis Shy told me he did this, and you will hear about
6 the circumstances where he says Arlandis Shy told him that
7 he was one of the people that shot the guy.

8 When you hear all of that, and you listen to his
9 testimony, and you hear all the reasons, things that if
10 you were asked to believe this person out on the street,
11 outside of this courtroom, in your community, in your
12 work, wherever it is that someone is telling you
13 something, you wouldn't believe a word what he said
14 outside of this courtroom, but yet, they are going to get
15 up and tell you now he is telling the truth.

16 When somebody tells you a story like that, you
17 want some corroboration. You want something to say, hey.
18 I will not base a conviction of something so serious as
19 this without something to corroborate, and I suggest to
20 you that is not going to be here in this case.

21 Those are what I call the substantive charges
22 against him, that is, the shooting, all of those counts
23 related to that shooting, and then you will see that there
24 were other things, but they are all dependent of his
25 participation in this so-called racketeering conspiracy

1 which the government will not be able to prove.

2 Because of the lack of evidence of his involvement
3 however, I caution you to make sure that when listening to
4 the evidence, and you're going through it and determining
5 what to believe, what not to believe, whether something
6 has been proven or not, do not be distracted by things
7 that have nothing to do with somebody's guilt or
8 innocence, and by that I mean, I suspect the government is
9 going to introduce, as they've already talked about it,
10 these rap videos, Facebook postings, things like that,
11 that they will try to distract you and say, look at this
12 shiny over here so you won't notice that the evidence is
13 lacking over here.

14 Ask yourself, is this -- when they introduce this
15 evidence, is this being introduced as proof, or is this
16 being introduced to have you offended, insulted, bothered
17 by what you're seeing in those videos so you think, these
18 are bad guys? Why would they say things like that? Why
19 would they rap about things like that?

20 This is not what -- what you're here for is not a
21 judgment of the lifestyle of individuals. That is what
22 they grew up with. That's what they are familiar with.
23 That's what they like. You will see Arlandis actually
24 participating as a rapper. This is what they do. It has
25 nothing to do with the charges of this case.

1 This case involves allegations of specific
2 misconduct, specific illegal acts, and whether the
3 government has any evidence of it, and whether they've
4 proven it. Do not be distracted. Do not decide that this
5 is a judgment on their lifestyle.

6 Because they will not have any of that evidence,
7 and will not be able to introduce any evidence of
8 Arlandis' involvement of guilt beyond a reasonable doubt,
9 we will get up at the end of the case and ask you to
10 present the only verdict that is going to be supported by
11 evidence in this case on behalf of Arlandis Shy, and
12 that's a verdict of not guilty.

13 Thank you very much.

14 **THE COURT:** Thank you, Mr. Theis.

15 Ms. Finocchiaro, do you have a witness to get
16 started with?

17 **MS. FINOCCHIARO:** Your Honor, at this time I
18 believe there is still some preliminary matters that we
19 have to address with both parties before we put on our
20 first witness. This might be a good time to break for the
21 day.

22 **THE COURT:** Okay. We'll do that. We've been
23 sitting a long time, and during the course of the trial if
24 you need to have a break or you are losing focus or need
25 to use the facilities, just catch my attention.

1 We are using Judge Tarnow's courtroom, and he has
2 these little cow bells, and he encourages jurors to ring
3 the bell if they have to have a break. I don't think you
4 will necessarily have to ring the bell. I will be happy
5 take a break if you need it.

6 In the meantime, remember for the reasons that
7 we've discussed earlier, you are not to talk about the
8 case among yourselves or with others while serving on the
9 jury. We will see you tomorrow, and I promise you that we
10 will get started timely, if you're here timely.

11
12 (Jurors excused at 12:53 p.m.)

13
14 **THE COURT:** Ms. Finocchiaro, I'm not
15 exactly --

16 **MS. FINOCCHIARO:** Give us one moment, your
17 Honor.

18 **MR. H. SCHARG:** Judge, while you're waiting,
19 I have three minor issues.

20 **THE COURT:** So Judge Tarnow has an afternoon
21 hearing. We'll have to do it up in the our hearing room
22 on 10. I'm not sure --

23 **MR. WIGOD:** Judge, I believe the parties
24 talked earlier about deferring instructing the jury on the
25 elements until after opening, meaning before we put on

1 testimony, which essentially is now or tomorrow morning.

2 I think both parties agree that given everybody's
3 opening, it would be -- and given the timing of everything
4 that we're now in the midst of the trial -- to simply skip
5 instructing the jury on the elements and go right to the
6 proofs.

7 **THE COURT:** I think that's a wise decision.
8 I think at some point -- at any point during the trial if
9 you wanted to revert to some instructions from the Court,
10 I think we have this prerogative.

11 As you indicated based on the openings, I think
12 they have a pretty decent introduction to the charges and
13 elements.

14 So is that's agreeable to all the defendants?

15 **MR. DALY:** Yes.

16 **MR. THEIS:** Yes.

17 **MR. H. SCHARG:** Yes.

18 **MR. FEINBERG:** Yes.

19 **MR. S. SCHARG:** On behalf of Mr. Porter, we
20 agree.

21 **THE COURT:** Okay. So I guess we're going to
22 see Mr. Johnson and his client. Is it Mr. Waterstreet
23 standing in plea?

24 **MR. WIGOD:** Yes.

25 **MR. H. SCHARG:** I have a couple of things.

1 It is my understanding in the first trial, the government
2 gave a list of witnesses in terms of sequence. There is
3 150 witnesses, 500 exhibits. I am not going to hold the
4 government to the fire, but I would like at least a
5 preliminary list each week, the Friday before the
6 following week as to witnesses they plan on calling.

7 **THE COURT:** Did they do that weekly or was
8 that the day before?

9 **MR. H. SCHARG:** I prefer the week before, and
10 give me a grouping of the witnesses they plan on calling
11 the following week rather than day before. One reason
12 being is that there are some consultants that I have that
13 I will need arrangements for traveling, and also to help
14 me prepare for that week.

15 **MR. SPIELFOGEL:** We won't hold them to that,
16 but at least it gives us a framework of what we need to
17 do.

18 **THE COURT:** That makes sense.

19 **MR. FEINBERG:** I would also ask that at the
20 conclusion of every day, what witnesses the government
21 intends to call the following day.

22 **MR. SPIELFOGEL:** An update.

23 **MR. THEIS:** I think it helps things move
24 smoothly. We know the government has issues with moving
25 people around this case, probably more than usual, but it

1 helps if we know a week ahead and then an update the day
2 before.

3 **MS. FINOCCHIARO:** Well, your Honor, I think
4 given that things do move around, and we don't know how
5 much cross there will be, and how long these witnesses
6 will take, we'll start to get that as the trial goes
7 along. I'm happy to give it to them a little bit in
8 advance. I don't know a full week. Maybe the Friday
9 before we give a rough estimate, and for any major
10 witnesses, such as experts or anyone that they need a
11 consultant for, we'll try to give as much advance notice
12 as we can, and we're still working on our order ourselves.

13 So we told them that Agent Ruiz will likely be the
14 first person. If he went on today, we gave them notice of
15 801(d)(2)(E) statements. So we will try to get them for
16 the rest of the week.

17 **MR. FEINBERG:** Who is after Agent Ruiz?

18 **MR. WIGOD:** Detroit Police Officers. Part of
19 the difficulty, we have no idea how long the defense
20 attorneys will be with Agent Ruiz.

21 **MR. H. SCHARG:** It's our understanding each
22 Friday, we'll get a list of possible witnesses that they
23 are going to call the following week. They have reserved
24 the right to add or change, but it will give us some
25 indication of some of the witnesses that will be called.

1 **MS. FINOCCHIARO:** That's fine.

2 **THE COURT:** Okay.

3 **MR. S. SCHARG:** May I address two issues?

4 **THE COURT:** Yes.

5 **MR. S. SCHARG:** We saw the video of
6 Mr. Bailey and his interrogation back in 2014, and on that
7 second video where he indicated there was seven core
8 members of the Seven Mile Bloods, I was wondering in order
9 to -- is it possible to get the government to modify that
10 tape, and make it where Mr. Bailey is indicating that he
11 is Seven Mile Bloods and not mention anything about the
12 other members involved? I mean, they are able to change
13 make those six little slips possible. So I think it could
14 be worked out even --

15 **THE COURT:** At what juncture do you expect
16 the clips? How far in the trial?

17 **MR. WECHSLER:** Realistically a month. We can
18 work this out before then. The government is not ready to
19 agree with Mr. Scharg's request, but we can work it out.

20 **THE COURT:** Okay. In that regard consult the
21 case log that talks about mutual terms.

22 **MR. S. SCHARG:** Lastly, your Honor, yesterday
23 when Mr. Bailey, at the conclusion of the -- before we
24 left for our break -- Mr. Bailey stood up and indicated
25 that he pointed to a couple members that were sitting -- a

1 couple of defendants that were not Seven Mile Bloods, and
2 I think he pointed to my client, Mr. Porter. I just want
3 the record to reflect that he did point to Mr. Porter,
4 indicating that he was not a Seven Mile Bloods, is that
5 correct Mr. Bailey?

6 **DEFENDANT BAILEY:** Yes, that was correct,
7 your Honor.

8 **MR. S. SCHARG:** I just wanted the record to
9 reflect that.

10 **THE COURT:** All right. Thank you.

11 (Proceedings adjourned at 1:03 p.m.)

12 - - -

13 **C E R T I F I C A T I O N**

14 I, Ronald A. DiBartolomeo, official court
15 reporter for the United States District Court, Eastern
16 District of Michigan, Southern Division, appointed
17 pursuant to the provisions of Title 28, United States
18 Code, Section 753, do hereby certify that the foregoing is
19 a correct transcript of the proceedings in the
20 above-entitled cause on the date hereinbefore set forth.

21 I do further certify that the foregoing
22 transcript has been prepared by me or under my direction.

23
24 s/Ronald A. DiBartolomeo
25 Ronald A. DiBartolomeo, CSR
Official Court Reporter

June 19, 2018
Date